IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19553 of 2004

Between:

Smt. Yacham Soujanya, W/o. Y. Ravinder,
R/o. H.No.1-9-11/15/2/1, Kishan Nagar Colony, Medak Town, Medak District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Medak Division, Medak District.
2 The Mandal Revenue Officer, Medak Mandal, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Mandal Revenue Officer, Medak Mandal, Medak District, the 2nd respondent herein in executing the orders passed in proceedings No.F/7975/2004 dt. 11.10.2004 under Section 6 of A.P. Land Encroachment Act III of 1905 as illegal, arbitrary and void and consequently set aside the same.

Counsel for the Petitioner:MR.C.R.PRATAP REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and both of them agreed for disposal of the writ petition at the stage of admission.

Petitioner earlier filed W.P.No.18637 of 2004 challenging notice under Section 7 of the A.P. Land Encroachment Act III of 1905 (for short 'the Act') issued by the second respondent-Mandal Revenue Officer. The said writ petition was disposed of on 12.10.2004 directing the second respondent to conduct an enquiry and pass final orders under Section 6 of the Act and only after communicating the said order and after expiry of the appeal period, if any, the second respondent can take possession of the property in question and without passing final orders and serving a copy on the petitioner, the respondents cannot dispossess the petitioner or stop the construction, which is proceeded with as per the sanctioned plan. After disposal of the above writ petition, the second respondent passed the final orders dated 11.10.2004 under Section 6 of the Act and served the same on the petitioner on 14.10.2004 and on the same day questioning the said order, the petitioner filed an appeal before the Revenue Divisional Officer-first respondent herein along with an application for stay of all further proceedings pursuant to the order passed by the second respondent under Section 6 of the Act. This writ petition is filed complaining that though the said appeal was entertained no orders were passed on stay application.

Since the appeal is a statutory right, pending the appeal the rights of the parties have to be safeguarded. In view of the same there shall be stay of all further proceedings pursuant to the order passed by the second respondent dated 11.10.2004 pending the appeal before the first respondent and the first respondent is

also directed to dispose of the appeal in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order, after issuing due notice and opportunity to the parties.

With the above direction, the writ petition is disposed of. No costs.

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A. GOPAL REDDY. J.

26th October, 2004

tsr.

To

1 The Revenue Divisional Officer, Medak Division, Medak District.
2 The Mandal Revenue Officer, Medak Mandal, Medak District.

3 Two CCs to Government Pleader for Revenue, High Court Buildings, Hyderabad. (OUT).

4 Two CD copies.